

Notice of Allowability

Application No.

09/355,637

Examiner

Sow-Fun Hon

Applicant(s)

HAMMER ET AL.

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview dated 01/12/2005.
2. ☒ The allowed claim(s) is/are 1-13, 15, 16, 18-27 and 31-33.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 01/12/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Paul Strain on 01/12/05.

The application has been amended as follows:

2. Cancel claims 28-30.
3. Substitute claim 1 with:
 - - An edible shaped body in the form of a flat or tubular fiber containing film; wherein the edible shaped body exhibits a longitudinal elongation at break of 12-15 % and a transverse elongation at break of 20-26 %; wherein the thickness or wall thickness of the edible shaped body is from 20 to 60 μm ; wherein the edible shaped body does not contain collagen; wherein the edible shaped body is based on biopolymers or cleavage products or derivatives thereon and/or synthetic polymers of natural monomers; and wherein the edible shaped body is produced by a process having the following stages:
 - a) mixing the biopolymers, cleavage products or derivatives thereof and/or the synthetic polymers with at least one edible plasticizer, at least one lubricant and at least one crosslinker and fibers;
 - b) melting the resultant mixture to give a thermoplastic mass;
 - c) extruding this mass; and

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d) calendaring and/or stretching or blowing the product obtained from the extrusion to give the edible shaped body. - -

4. Claim 31: line 1: after “according to”, replace “claim 30” with - - claim 1 - -.

5. Specification dated 08/02/99: Page 1: Below title “Edible shaped bodies, in particular flat and tubular films”, insert - - This application is a 371 of PCT/EP97/07212, filed 12/19/1997. - -

6. Specification dated 08/02/99: Page 1: Above line 5 (as numbered in margin), “The invention relates to...”, insert heading: - - Background of the Invention - -.

7. Specification dated 08/02/99: Page 1: Below line 35 (as numbered in margin), “result lose their strength.”, insert heading - - Summary of the Invention - -.

8. Specification dated 08/02/99: Page 2: Above line 12 (as numbered in margin), “The object is achieved...”, insert heading - - Detailed Description of the Invention - -.

REASONS FOR ALLOWANCE

9. The following is an examiner’s statement of reasons for allowance: the closest cited prior art DE 4,438,961, even in combination with US 5,679,145, fails to teach or suggest an edible shaped body in the form of a flat or tubular fiber containing film; wherein the edible shaped body does not contain collagen; wherein the edible shaped body is based on biopolymers or cleavage products or derivatives thereon and/or synthetic polymers of natural monomers; wherein the thickness or wall thickness of the edible shaped body is from 20 to 60 μm ; wherein the edible shaped body exhibits a longitudinal elongation at break of 12-15 % and a transverse elongation at break of 20-26 %; and wherein the edible shaped body is produced by a process having the following stages: a). mixing the biopolymers, cleavage products or derivatives thereof and/or the

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synthetic polymers with at least one edible plasticizer, at least one lubricant and at least one crosslinker and fibers; b) melting the resultant mixture to give a thermoplastic mass; c) extruding this mass; and d) calendaring and/or stretching or blowing the product obtained from the extrusion to give the edible shaped body.

The combination of both longitudinal elongation at break of 12-15 % and transverse elongation at break of 20-26 %, of the edible shaped fiber-containing film, is neither anticipated nor obvious over the cited prior art. This combination allows the edible shaped fiber-containing film to be easily biteable by the consumer, the film function which Applicant is trying to convey using the terms of "edible" and "chewable" (page 11 of remarks dated 11/30/04).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (571)272-1492. The examiner can normally be reached Monday to Friday from 10:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571)272-1498. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Hon
Sow-Fun Hon

01/18/05

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

1/24/05